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Honorable Christopher M. Alston
Chapter 11
Location: Seattle, Courtroom 7206
Hearing Date: June 17, 2016
Hearing Time: 9:30 a.m.
Response Deadline: June 10, 2016

7
8 UNITED STATES BANKRUPTCY COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 In re:

12 NORTHWEST TERRITORIAL MINT, LLC,

13 Case No. 16-11767-CMA

14 TRUSTEE'S RESPONSE TO DIANE
15 ERDMANN'S NOTICE AND MOTION
16 TO DETERMINE APPLICABILITY OF
17 AUTOMATIC STAY

18 Mark Calvert, Chapter 11 Trustee (the "Trustee") for the Northwest Territorial Mint, LLC
19 ("NWTM"), in the above-captioned proceeding, by and through his attorneys, K&L Gates, LLP,
20 responds to Diane Erdmann's Motion to Determine Applicability of the Automatic Stay (the
21 "Motion") as follows:

22 The Trustee's ongoing investigation has led him to conclude that some or all of the Seized
23 Property is property of the bankruptcy estate. On May 4, 2016, the Trustee filed a Reply to Diane
24 Erdman's Response to Motion for Authority to Withdraw as Attorney for Debtor (the "Attorney
25 Withdrawal Reply") in which he informed the Court of his belief that the source of monies used to
26 pay a retainer to Todd Tracey Law Group (the "TTLG Retainer") was precious metals that had been
taken from NWTM's vaults. *See* Attorney Withdrawal Reply [Dkt. No. 182]. In her Motion, Ms.
Erdman makes the assertion that some of the Seized Property was from the same collection of
precious metals that was liquidated to pay the TTLG Retainer.

TRUSTEE'S RESPONSE TO DIANE ERDMANN'S
MOTION TO DETERMINE APPLICABILITY OF
AUTOMATIC STAY - 1

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1 Since the Motion was filed, the Trustee has conducted significant discovery including review
2 of documents and depositions of Ms. Erdmann and other witnesses. The Trustee has evaluated
3 claims to ownership of the seized assets made by Ms. Erdmann and Medallie Art Company, LLC as
4 well as Mr. Hansen's disavowal of ownership of the Seized Assets. In light of Ms. Erdmann's
5 assertion, and her admission that "at least some of the [Seized Property] belongs to the Debtor
6 herein" the Trustee agrees that the automatic stay of 11 U.S.C. §362 stays any acts to obtain
7 possession of or exercise control over the Seized Property, including execution thereon. Moreover, it
8 is the Trustee's position that this Court has exclusive jurisdiction to determine whether the Seized
9 Property constitutes property of the bankruptcy estate under 11 U.S.C. §541¹, and therefore supports
10 entry of an order staying the State Court Proceeding to the extent that it intends to determine
11 ownership of or dispose of the Seized Property. The Trustee proposes the revisions to the proposed
12 order which was submitted by Ms. Erdmann as reflected in Exhibit A hereto to clarify that the
13 automatic stay is limited to the Seized Property and does not affect the rights of Mr. Cohen to pursue
14 enforcement of his judgment against Mr. Hansen from assets which are not property of the
15 bankruptcy estate.

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DATED this 10th day of June, 2016.

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K&L GATES LLP

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By /s/ David C. Neu

Michael J. Gearin, WSBA #20982

David C. Neu, WSBA #33143

Brian T. Peterson, WSBA #42088

Attorneys for Mark Calvert, Chapter 11 Trustee

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¹ See, e.g., *In re AE Liquidation Inc.*, 435 B.R. 894, 904-5 (Bankr. D. Del. 2005) (holding that the bankruptcy court had exclusive jurisdiction to determine whether or not disputed aircraft was property of the estate).

TRUSTEE'S RESPONSE TO DIANE ERDMANN'S
MOTION TO DETERMINE APPLICABILITY OF
AUTOMATIC STAY - 2

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CERTIFICATE OF SERVICE

The undersigned declares as follows:

That she is a paralegal in the law firm of K&L Gates LLP, and on June 10, 2016, she caused the foregoing document to be filed electronically through the CM/ECF system which caused Registered Participants to be served by electronic means, as fully reflected on the Notice of Electronic Filing.

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

Executed on the 10th day of June, 2016 at Seattle, Washington.

/s/ *Denise A. Evans*
Denise A. Evans

**TRUSTEE'S RESPONSE TO DIANE ERDMANN'S
MOTION TO DETERMINE APPLICABILITY OF
AUTOMATIC STAY - 3**

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